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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/641,689	08/14/2003	Melvin Joseph White II	CRNT-0178	1278

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EXAMINER

CROSLAND, DONNIE L

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/641,689	Applicant(s) WHITE ET AL.	
	Examiner DONNIE L. CROSLAND	Art Unit 2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-78 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6-9-04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 6-9-04 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the S.N.s as represented by numbers 235-258 are not available publications with respect to the US Patent Documents on the PTO-1449 . It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 112

Claims 19, 46, and 57-67, and 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, the phrase "the notification" has no antecedent basis.

In claim 46, the phrase "the amount of data" has no antecedent basis.

In claim 57, the phrase "said response" has no antecedent basis.

In claim 78, the phrase "The computer program" has no antecedent basis.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 57-67 and 78 are rejected under 35 U.S.C. 101 because "computer programs" are not patentable. The language should be changed to reflect the structure for creating the program and not the program itself.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 57, and 68 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lou et al (2003/0227373).

With respect to claim 8, the low voltage interface reads on the substation transformer.

Claim 9, note subnet in paragraph 0161.

Claims 1, 57, and 68 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hunt (6154488), see figures 1, 2, 13, and col. 2, lines 15-67, col. 4, lines 62 et seq., cols. 5 and 6, and col. 13, lines 54-63.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 10-56, 58-67, and 69-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lou et al.

Lou shows the method and apparatus of operating a power line communication system comprised of an electrical power distribution network that includes high voltage power lines and substation transformer 12, (paragraph 0053, 0054, and 0064) and a plurality of power line network elements that includes for instance homes 60, 62 in figure 3 coupled to the electrical power distribution network at different locations as provided by power line nodes 34, 36; comprising receiving at a power line node network information relating to the plural network elements (users within homes 60, 62 that produces user inbound data to another user via the power line, paragraph 0083, wherein the network information comprises an address and information identifying the network element, paragraph 0078, and data packets as shown in figures 14-17.

The step of storing network element information in a memory is obvious over the inbound section 158, which deciphers the local area network data 140 to identify the individual addresses, i.e., paragraph 0078. Such deciphering is analogous to memory since comparison from memory is a conventional step in the art for deciphering.

Also, a memory 346 is realized in power node 34, see figure 13, and paragraph 0130-0133.

Claim 2, the physical location (home 60) is determined with respect to the user address of the network element,

Claims 3-7 see paragraph 0018.

Claim 8, the low voltage interface reads on substation transformers 30, 32, paragraphs 0053-0055, 0067, and 0157.

Claim 9, note VLAN domain being on a subnet. Accordingly, a subnet mask for transmission is inherent, see paragraph 0161.

Claims 10 and 74 see customer information in paragraph 0070. Also see data transmission and data reception, paragraph 0080.

Claims 11 and 21 see paragraphs 0128 and 0129.

Claims 12 and 75 see encryption in paragraphs 0135 and 0143.

Claim 13, see filtering in paragraph 0066.

Claims 14 and 22, see paragraph 0078 and 0138.

Claims 15 and 76, subscription level is analogous to pay-per view events, premium services, paragraph 0179.

Claims 16 and 17, DNS (Domain Name Servers) address as well as the registration server address are clearly analogous to packet data communications that are incoming on the Administrative VLAN that include gateway service updating, gateway software updating, and other administrative functions, paragraph 0181. Paragraphs 0160 provides for VLAN domains. A server address is an administration function.

Claims 18 and 19, notification is achieved via the power line node with respect to an end user, whether new or old, see paragraph 0146.

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Claims 20, 69, and 77, pay per view would involve payment information, see paragraph 0192.

Claim 23, activation notice is within the capabilities of the Administrative VLAN, paragraph 0181 or the utility company paragraph 0129, see also access privileges, paragraph 0070.

Claims 24, 25, 66, and 78, see paragraph 0074. The skilled artisan recognizes that power outage as a conventional parameter and the monitoring of such would not involve patentable invention.

It would have been obvious to one having ordinary skill in the art to identify power outage in the system of Lou.

Claims 27 and 28, see authorized access code in paragraph 0070.

Claims 29-32, see address in paragraph 0070, also see VLAN Ids, paragraphs 0015-0018, and individual addresses in paragraph 0078, see also paragraph 0133.

Claims 33-39, see software update in paragraphs, 0017, 0161, 0612, 0174-0175, 0180-0182, and 0193.

Claim 40, the recite out of limit notification and the storage of such VLAN storage 2506 in figure 25A.

Claim 41, time synchronization command would not involve invention since the skilled artisan recognizes that the configuration packets would include sync data as part of configuration., see figure 28.

Claim 42, the communication is via EPDN.

Claims 43-56 involves obvious recitations with respect to the communication commands, requested data, see figures 26-29.

Claims 58-60, 70-72, these limitations are conventional with respect to the program operation as shown in figures 26-29. Such would not involve patentable invention.

Claims 61 and 73, see IP address in paragraph 0018.

Claims 62-65, see paragraphs 0179, 0187, 1088. Code segments are analogous to packet data in figures 28 and 29.

Claim 67, see visual of box 2536. Such is not a streetlight, however the artisan is taught to communicate with a light. The streetlight would be a matter of choice.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McNamara et al, Baker, Jr., and Beukema are cited as showing PLC communications combined with network communications or network devices.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is (703) 305-4388. The examiner can normally be reached on Mon-Fri, 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFERY HOFSSASS can be reached on (703) 305-4717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DONNIE L. CROSLAND
Primary Examiner
Art Unit 2636

Dlc 
10-18-04